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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,795	02/12/2001	Malcolm F. Ruppert	60,130-1004	6956

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/781,795

Applicant(s)

RUPPERT ET AL.

Examiner

Frank Vanaman

Art Unit

3618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 02 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: applicant's comments have been carefully considered. As regards applicant's assertion that there is no motivation to modify the reference to Anglada, this is not correct. A motivation is clearly set forth in the office action at page 2, lines 24-25, for example. As an aside, applicant is reminded that it is well held that it is not necessary for the motivation to combine two references to be explicitly stated in either reference, although applicant has not explicitly argued such. Applicant refers to element 110 as a wheel hub, however Varela describes this element as a wheel mounting flange. As best understood the hub assembly includes this element, certainly, as well, at least, as elements 120 and 13, which are not limited from being a portion of the wheel hub assembly. The examiner notes that applicant's recitation of a wheel hub in the claims lacks any further specificity as currently recited, and applicant is reminded that it is not proper for an examiner to read unclaimed limitations into the claims. As regards applicant's comments directed to the term 'transverse', while applicant may desire to assert that 'there is absolutely no requirement that a transverse element be orthogonal', the examiner again reminds applicant of the previously recited language in claim 23, which remains a part of the prosecution history, and notes that applicant has not provided any evidence of the envisionment of a wheel hub arrangement which may rotate about an axis and drive a vehicle in a direction which is not orthogonal to that axis.

Continuation of 10. Other: Applicant's further communication of December 9, 2004 is noted. The original request for reconsideration was received in the Office on December 2, 2004; routing of the request to the examiner may have been slowed by the usage of an incorrect art unit designation on applicant's papers. Applicant is reminded that the art unit examining this application is 3618, not 3611, and amendments may be directed to 3618 for faster routing. Applicant was explicitly informed of this change on page 5 of the office action mailed on August 13, 2002..